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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/616,640	07/10/2003	Ricky Creel	2491.001	3431

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EXAMINER	
GREEN, BRIAN	

ART UNIT	PAPER NUMBER
3611	

DATE MAILED: 05/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/616,640	CREEL, RICKY	
	Examiner	Art Unit	
	Brian K. Green	3611	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *21 January 2005*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-20* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-20* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Applicant is advised that should claim 5 be found allowable, claim 11 will be objected to under 37 CFR 1.75 as being a substantial duplicate thereof. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1,3,7,9,10,17,18,19, and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Young (U.S. Patent No. 2,834,134).

Young shows in figures 1-3 a lighted image display comprising an image frame box comprising a front panel (14) with a transparent portion (16) and a lower opaque portion, a rear panel (54) having an image (see column 2, lines 54-57 and 68-70) thereon, and electric lights (44). Some of the light from the lights (44) would reflect off of the image on the rear panel (54). In regard to claims 7 and 19, the transparent portion in Young is considered to be the portion of opening (16) not covered by element (36). The image on the background panel of Young would inherently be located on the upper portion of the panel (54) in order to allow the image to be seen. Therefore, the image on the panel (54) would be seen through the transparent portion (opening 16 not covered by element 36) without being obstructed. In regard to claims 7,9,19,

and 20, the panel (36) of Young is removable from the frame, see column 2, lines 64-68. When the panel (36) is removed from the frame, the image could be fully seen without any obstructions and the transparent portion would not include any obstruction. In regard to claims 3,9, and 20, the transparent portion (16) would cover at least 50 percent of the front surface of the front panel.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 6 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Young (U.S. Patent No. 2,834,134).

Young does not disclose whether the front panel and rear panel are spaced apart by at least 2.5 centimeters. Young discloses in column 3, lines 15-20 the idea of varying the distance between the rear panel (54) and the panel (36) which is attached to the front panel. It would have been obvious to one in the art to modify Young by spacing the rear panel and front panel apart by at least 2.5 centimeters since this would help to make the image appear to be three dimensional, i.e. it would create greater depth to the display and improve the desired three-dimensional effect.

Claims 2,8,14, and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Young (U.S. Patent No. 2,834,134) in view of Yu (U.S. Patent No. 5,265,357).

In regard to claims 2 and 8, Young discloses the applicant's basic inventive concept except whether the image placed on the rear panel is in the form of a photograph. Yu shows in figures 1-4 a display frame that includes a rear panel (30) that includes a photograph (10c) attached thereto. In view of the teachings of Yu it would have been obvious to one in the art to modify Young by making the image in the form of a photograph since this would allow the image to be formed/attached to the rear panel in an easier and faster manner and create a more aesthetically pleasing display. In regard to claims 14 and 16, Young discloses the applicant's basic inventive concept except for making the transparent portion out of glass. Yu shows in figure 1 the idea of covering a transparent portion with a transparent glass panel (10b). In view of the teachings of Yu it would have been obvious to one in the art to modify Young by covering the opening with a transparent glass panel since this would protect the image and light source from dirt, dust, and damage. The glass panel attached to the frame of Young would be considered the "transparent portion".

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Young (U.S. Patent No. 2,834,134) in view of Cannady (U.S. Patent No. 6,668,477).

Young discloses the applicant's basic inventive concept except for making the front panel and the rear panel parallel. Cannady shows in figure 1 that the front wall (13A) is parallel to the back wall. In view of the teachings of Cannady it would have been obvious to one in the art to modify Young by making the front panel parallel to the rear panel since this would allow the front panel to be made in an easier, faster, and less expensive manner.

Claims 5 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Young (U.S. Patent No. 2,834,134) in view of Brody (U.S. Patent No. 3,783,544).

Young discloses the applicant's basic inventive concept except for placing a reflective material on at least a portion of the side walls. Brody shows in figures 1-2a an illuminated display which includes reflective paint on the side walls, see column 6, lines 51-55. In view of the teachings of Brody it would have been obvious to one in the art to modify Young by attaching reflective material to the side walls since this would allow the image to be illuminated in a more brilliant manner.

Claims 13-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Young (U.S. Patent No. 2,834,134) in view of Royal (U.S. Patent No. 5,383,293).

Young discloses the applicant's basic inventive concept except for making the transparent portion out of plastic or glass. Royal shows in figures 1-2 the idea of covering a transparent portion with a transparent plastic or glass panel (12). In view of the teachings of Royal it would have been obvious to one in the art to modify Young by covering the opening with a transparent glass or plastic panel since this would protect the image and light source from dirt, dust, and damage. The plastic or glass panel attached to the frame of Young would be considered the "transparent portion".

Response to Arguments

Applicant's arguments filed Jan. 21, 2005 have been fully considered but they are not persuasive.

The applicant argues that Young does not teach a front panel comprising a transparent portion that is not imaged as required in claim 1. The applicant argues that the window of Young does not teach a transparent portion that is formed of a transparent or substantially transparent material, as taught by the specification of the instant invention. The examiner disagrees since the applicant defines in claim 1 that the front panel comprises a transparent portion. As broadly defined in claim 1, the opening (16) in the frame of Young is considered to be a transparent portion. Limitations defined in the specification are not read into the claims. The claims are interpreted in their broadest reasonable manner.

The applicant argues that the transparent portion of Young is not at least fifty percent of the area of the frame since both the frame and the silhouette (36) have to be considered the frame. The examiner disagrees since the silhouette (36) is a separate element from the frame and does not have to be considered part of the frame.

The applicant argues that there is nothing in either Yu or Young that suggests that a photograph should be positioned against the rear panel. Young discloses the idea of placing a scene on a background panel but does not disclose how the scene is placed on the background panel. Yu shows in figures 1-4 a display frame that includes a rear panel (30) that includes a photograph (10c) attached thereto. Using a photograph as taught by Yu would provide the advantage of allowing the image to be formed/attached to the rear panel in an easier and faster manner and create a more aesthetically pleasing display.

The applicant argues that there is nothing in Cannady to suggest or motivate one skilled in the art to provide a generally parallel rear panel and generally front panel for the purpose of highlighting images attached to the panel. The examiner disagrees since making the front and rear panels parallel as taught by Cannady would provide the advantage of allowing the front panel to be made in an easier, faster, and less expensive manner.

The applicant argues that Brody does not teach positioning the reflective material between a front panel and the image as required in claim 5. Brody is merely being used to show that it is known to place reflective material on the side walls of a frame in order to illuminate an image in a more brilliant manner. Young already shows the structure of an image, a front panel, and side walls located between the image and the front panel.

The applicant argues that there is no teaching in the prior art with regard to spacing the front panel and the rear panel apart a minimum of 2.5 centimeters as defined in claim 6. Young discloses in column 3, lines 15-20 the idea of varying the distance between the rear panel (54) and the panel (36) which is attached to the front panel. In view of this statement, it is considered within one skilled in the art to vary the distance between the front and rear panel in order to achieve a desired affect.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL.** See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian K. Green whose telephone number is (571) 272-6644. The examiner can normally be reached on M-F 7am-3:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley Morris can be reached on (571) 272-6651. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Brian K. Green

BRIAN K. GREEN
PRIMARY EXAMINER

Bkg
May 4, 2005